

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18359 of Essie Clark, pursuant to 11 DCMR § 3104.1, for a special exception to allow a one-story rear addition to an existing two-story, one-family, semi-detached dwelling under § 223, not meeting the side yard (§ 405), lot occupancy (§ 403), and lot area (§ 401) requirements in the R-4 District at premises 5422 8th Street, N.W. (Square 2994, Lot 40).¹

HEARING DATES: June 5 and June 26, 2012
DECISION DATE: June 26, 2012

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The Application was accompanied by a memorandum, dated January 12, 2012, from the Zoning Administrator stating that Board of Zoning Adjustment (“Board” or “BZA”) approval was required for a special exception from § 223.1 of the Zoning Regulations to permit the proposed addition to an existing one-family dwelling that does not comply with the required side yard setback (§405.9) and maximum lot occupancy (§ 403.2). (Exhibit 3.)

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register*, and by mail to Advisory Neighborhood Commission (“ANC”) 4D and to owners of property within 200 feet of the site as well as to the Office of Planning (“OP”). The site of this application is located within the jurisdiction of ANC 4D, which is automatically a party to this application. ANC 4D neither submitted a formal report, nor did the ANC testify at the Applicant’s hearing.²

¹ The Applicant amended the application to add relief from the lot area requirements under § 401 per the Office of Planning’s (“OP”) recommendation. The caption has been amended to reflect that additional relief and to correct the caption which was advertised for a two-story addition to reflect that the application was for a one-story rear addition to an existing two-story, one-family semi-detached dwelling, as per the OP report. (Exhibit 22.)

² The Applicant submitted a letter she wrote to the Single Member District member of the ANC requesting that the ANC place the application on its agenda. The letter also noted that the property was posted with notice of the second day of hearing. (Exhibit 24.) Although the Applicant provided an unsigned email from the ANC that

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BOARD OF ZONING ADJUSTMENT
District of Columbia

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EXHIBIT NO. 28

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The Office of Planning ("OP") submitted a report dated May 29, 2012 in support of the application. The OP report also noted that the existing lot is non-conforming as to lot area. (Exhibit 22.)

Ms. Marian Ford, 5423 8th Street, N.W., submitted an application for party status in support of the application accompanied by a letter of support. (Exhibit 20.) As Ms. Marian Ford was not present at the hearing, the Board, by consensus, decided not to grant Ms. Ford party status. However, the Board acknowledged that Ms. Ford's letter of support accompanying her party status application would be accepted as a letter in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception relief under § 223 (§§ 405, 403, and 401) of the Zoning Regulations. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP report filed in this case, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 223 (§ 405, 403, and 401), that the requested relief can be granted, as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

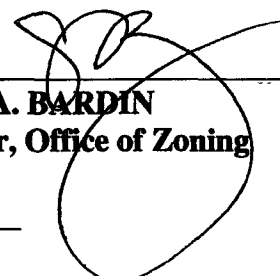
Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case. It is therefore **ORDERED** that this application (pursuant to Exhibit 7 – Plans) is hereby **GRANTED**.

VOTE: 5-0-0 (Marcie I. Cohen, Nicole C. Sorg, Lloyd J. Jordan, Rashida Y.V. MacMurray, and Jeffrey L. Hinkle to Approve.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this summary order.

ATTESTED BY:


SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: JUN 29 2012

expressed the ANC's support for the application (Exhibit 26), there was no formal ANC report submitted which met the law's requirements and to which the Board could give great weight.

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.